

## **Arsenic**

- Use MCL of 10 for freshwater and additionally:
  - Ecology's existing mixing zone policy allows for the establishment of permit limits and measures of compliance for human health criteria.
  - If, at the edge of a mixing zone, the concentration of arsenic exceeds the natural condition (likely between 2-10) caused by a discharger, Ecology would require a pollutant minimization plan.
  - Need to consider how much of this language goes in WQS versus guidance.
  - Also need to consider calling out natural conditions, background conditions, or something else.
- Use MCL of 10 for marine water or have no marine criteria
- Other option would be to stay in NTR

## **Methylmercury**

- Leave in NTR -- defer adoption until Ecology develops implementation procedures
  - Eventually look at possible statewide variance for methylmercury
  - Conduct studies on atmospheric deposition
  - Rely on state's mercury chemical action plans
  - WA has old EPA mercury aquatic life criteria

## **PCBs**

- Change risk level to  $4 \times 10^{-5}$ 
  - Based on state DoH fish advisory non-cancer effects (translate the RfD to a cancer risk level). Ecology defers to DoH
    - Note: This is the only pollutant that falls between  $10^{-4}$  and  $10^{-6}$  risk range when translating non-cancer to cancer effects
  - Footnote would still state the criteria is based on total PCBs (all congeners)
  - New footnote language would be added that if specific congener data is available on local fish/shellfish, a different effluent limit can be given to form the basis for compliance assessment (i.e. only account for certain congeners that is being discharged plus accounting for those congeners that are found in fish/shellfish locally). There would be a monitoring component and regular check-ins. Ecology did not expect this concept to be used often.
  - For example, if 100 congeners of the 209 show up in fish/shellfish data, and the facility is only discharging those 100 congeners, that's how compliance with the criteria would be assessed.

## **Dioxin**

- Since EPA is not updating this 304(a) criteria recommendation, Ecology is considering using the new RfD in IRIS from 2012 and making this a non-carcinogenic criteria. Little difference in the outcome of the final criteria, but concerns about EPA standing behind the current cancer slope factor since it's not being updated.

## **Variances**

- Moving away from 40 year variance
- Would like to not specify timeframe in general provision, but would do so as individual variances are issued. Is this okay?
- Do they need any specific language regarding multi-discharger variances or statewide variances in their general provisions?

- Would still like potentially like to explore the possibility of performance-based variances being issued without EPA review (described in their reg revision comment letter).

### **Compliance schedules**

- Ecology still deciding whether to update this to 20 years. May want to stay silent on maximum timeframe, but uncertain if that could be done given legislative direction.
- Maintain language that says must be issued for “as soon as possible”.
- May replicate the provision – separate for human health and aquatic life so that ESA consultation can play out.

### **Intake Credit Rules**

- Model after OR’s rule which was nearly identical to the GLI
- EPA would not act on this provision as a WQS
- Need EPA NPDES permit review of the provision